

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERADATA CORPORATION, TERADATA
US, INC. and TERADATA OPERATIONS,
INC.,

Plaintiffs,

v.

SAP SE, SA AMERICA, INC., and SAP LABS,
LLC,

Defendants.

No. 2:20-mc-00074-RSM

**DECLARATION OF
LEE HOWARD IN SUPPORT OF
MICROSOFT CORPORATION'S
OPPOSITION TO PLAINTIFFS'
MOTION TO COMPEL**

I, Lee Howard, declare and state as follows:

1. I am over the age of eighteen years and not a party to this action.

2. I am a litigation paralegal at Microsoft Corporation. I make the statements here based upon my personal knowledge and knowledge or review of regularly maintained business records, as well as on my discussions with appropriate personnel. If called as a witness, I could and would testify competently to the matters stated here.

3. By May 2020, the COVID-19 pandemic had resulted in many Microsoft employees working remotely. This made identifying employees familiar with the issues in Teradata's subpoena and scheduling interviews with those employees far more time consuming than typical as personnel were being pulled in many different obligations and had new and competing demands on their time as a result of COVID-19.

1 4. Summer vacation schedules, remote summer camps, and remote schooling in
2 Washington State further compounded the difficulty of locating and interviewing employees, and
3 identifying responsive documents.

4 5. In response to Teradata's subpoena, Microsoft conducted approximately 17
5 interviews with Microsoft employees to assist in identifying and collecting thousands of pages of
6 material, and has produced or is in the process of producing its responsive documents.

7 6. In response to Teradata's subpoena, Microsoft searched for historic data
8 describing the release date and operation of certain products Teradata identified. The bulk of the
9 responsive material Microsoft located was not available in electronic form, including thousands
10 of pages of hard copy materials describing the operation of those products. Microsoft also
11 located and produced electronic documents discussing Microsoft's release of the relevant
12 products.

13 7. Microsoft was following the Washington State guidelines and the vast majority of
14 its employees were working remotely. A Microsoft employee therefore had to obtain special
15 permission to physically go into the office to collect materials to ship those hardcopy materials
16 for review at outside counsels' home.

17 8. Requiring Microsoft, a non-party, to search its records for all marketing materials
18 and plans for 28 versions of one product and "all versions" of three other products, over a span
19 of nine years, would be time consuming, expensive, and impossible to do without undue burden.

20 9. Microsoft conducted a reasonable search and identified its top 10 customers for
21 each product for each of year Teradata requested. Producing these documents, however, requires
22 the creation of reports that must be manually de-duped and checked for accuracy. Conducting an
23 additional search for 90 smaller customers would significantly, and unnecessarily, increase the
24 burden for Microsoft, as it would result in thousands of lines of data that need to be manually
25 reviewed, de-duped, and checked for errors.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on September 14th 2020, in Seattle, Washington.

3
4 
5 Lee Howard